



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

September 7, 2018

Return Receipt Requested

Certified Mail #: **(b) (6) Privacy**

In Reply Refer to:

EPA Complaint No: 05R-18-R4

David Wilson
Acting Director
South Carolina Department of Health and Environmental Control
2600 Bull Street
Columbia, SC 29201

Re: Rejection of Administrative Complaint

Dear Acting Director Wilson:

The U.S. Environmental Protection Agency (EPA), External Civil Rights Compliance Office (ECRCO), is in receipt of a complaint against the South Carolina Department of Health and Environmental Control (SC DHEC), received August 15, 2018, alleging discrimination based on race in violation of Title VI of the Civil Rights Act of 1964. The complaint alleges that SC DHEC failed to notify the Complainant and her family of the risk of harm from toxic chemical exposure from a leaking underground storage tank near her residence. Additionally, the complaint states that the City of Charleston and the County of Charleston discriminated by approving a permit application for construction and maintenance of new land development, public service utility line, and a subdivision to a White-owned developer in a predominantly African-American community affected by the release and that the White-owned developer and builder is responsible for the ongoing design and construction of a new subdivision in a predominantly African-American community. For the reasons identified below, ECRCO is rejecting this complaint and closing this case as of the date of this letter.

Pursuant to EPA's nondiscrimination regulation, ECRCO conducts a preliminary review of administrative complaints to determine acceptance, rejection, or referral to the appropriate Federal agency. *See* 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in the EPA's nondiscrimination regulation. First, the complaint must be in writing. *See* 40 C.F.R. § 7.120(b)(1). Second, it must describe an alleged discriminatory act that, if true, may violate the EPA's nondiscrimination regulation (i.e.,

an alleged discriminatory act based on race, color, national origin, sex, age, or disability). *Id.* Third, it must be filed within 180 days of the alleged discriminatory act. *See* 40 C.F.R. § 7.120(b)(2). Finally, the complaint must be filed against an applicant for, or recipient of, EPA financial assistance that allegedly committed the discriminatory act. *See* 40 C.F.R. § 7.15.

ECRCO requested clarification from the Complainant on August 30, 2018 via telephone to confirm which entity the Complainant believes conducted the alleged discriminatory act within 180 days from the date of the complaint submission and to further discuss the details of the alleged discriminatory act. Based on this call, ECRCO concluded that the complaint focused on SC DEHC's lack of notice to the Complainant and her family regarding the leaking underground storage tank which occurred in 2008. The Complainant also expressed her dissatisfaction with SC DEHC's responses to her inquiries from 2014 to March 2018. During that call the Complainant stated that she would send additional information on Tuesday, September 4, 2018. On Wednesday, September 5, 2018, the Complainant contacted ECRCO and stated that she planned to submit an addendum to the complaint via email on Thursday, September 6, 2018. As of the date of this letter, no further information has been received by ECRCO.

Based on the information the Complainant provided, ECRCO has concluded that it cannot accept the administrative complaint for investigation because it does not meet the jurisdictional requirements described in EPA's nondiscrimination regulation. Specifically, the complaint was not filed within 180 days of the act alleged. As a result, ECRCO does not have jurisdiction to investigate the claims raised in the complaint. Accordingly, ECRCO is closing the case as of the date of this letter.

If you have questions about this letter, please contact Case Manager Brittany Robinson, at (202) 564-0727, via email at robinson.brittany@epa.gov or by mail at U.S. EPA, Office of General Counsel, Mail Code 2310A, Room 2524, 1200 Pennsylvania Avenue, NW, Washington, DC, 20460-1000.

Sincerely,



Lilian S. Dorka
Director
External Civil Rights Compliance Office
Office of General Counsel

cc: Elise Packard
Associate General Counsel
Civil Rights & Finance Law Office

Acting Director David Wilson

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Kristy H. Eubanks
Acting Assistant Regional Administrator
Acting Deputy Civil Rights Official
U.S. EPA, Region 4